

LEGISLATIVE FISCAL ESTIMATE:

Yes [11-20-08](#)
[12-17-08](#)

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"Corzine OKs bill to boost business," The Record, 12-18-08, p.B04

"N.J. jobless up slightly - Corzine signs latest stimulus bill ," The Press of Atlantic City, December 18, 2008, C5

"Small businesses are getting a bigger break," The Star Ledger, 12-18-08, p.46

LAW/RWH 3/6/09

P.L. 2008, CHAPTER 118, *approved December 17, 2008*
Assembly Substitute (*First Reprint*) for
Assembly, No. 2720

1 AN ACT broadening the small qualified business exception under
2 the UEZ sales tax rebate program, amending P.L.1983, c.303.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
8 read as follows:

9 20. a. Retail sales of personal property (except motor vehicles
10 and energy) and sales of services (except telecommunications and
11 utility services) to a qualified business for the exclusive use or
12 consumption of such business within an enterprise zone are exempt
13 from the taxes imposed under the "Sales and Use Tax Act,"
14 P.L.1966, c.30 (C.54:32B-1 et seq.).

15 b. Notwithstanding the provisions of subsection a. of this
16 section, the seller shall charge and collect from a purchaser that is
17 not a small qualified business the tax at the rate then in effect, and
18 the tax shall be refunded to the purchaser by the filing, within one
19 year following the date of sale, of a claim with the New Jersey
20 Division of Taxation for a refund of sales and use taxes paid for the
21 goods and materials. Proof of claim for refund shall be made by the
22 submission of auditable receipts and such other documentation as
23 the Director of the Division of Taxation may require.

24 c. As used in this section:

25 "Qualified business" includes a business that becomes qualified
26 by the time the refund application is filed pursuant to subsection b.
27 of this section; and

28 "Small qualified business" means a qualified business that has
29 been determined and certified by the director to have had less than
30 **[\$3,000,000]** ¹**[\$7,000,000]** \$10,000,000¹ in annual gross receipts
31 in that **[business]** business's prior annual tax period.

32 d. The director shall submit to the Senate Legislative Oversight
33 Committee and the Assembly Regulatory Oversight Committee any
34 rules or regulations to effectuate amendments made to this section
35 by P.L.2006, c.34 that are proposed for publication in the New
36 Jersey Register. The director shall evaluate the effectiveness of the
37 amendments made to this section by P.L.2006, c.34 and report any
38 findings and recommendations regarding the amendments to the
39 Senate Legislative Oversight Committee and the Assembly

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted November 24, 2008.

1 Regulatory Oversight Committee before the Governor presents a
2 budget proposal for Fiscal Year 2008.

3 (cf: P.L.2007, c.328, s.1)

4

5 2. This act shall take effect immediately and apply to sales of
6 personal property and services made or rendered on or after the first
7 day of the second month next following the date of enactment.

8

9

10

11

12 _____
13 Broadens small qualified business exception under UEZ sales tax
rebate program.

ASSEMBLY, No. 2720

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 12, 2008

Sponsored by:

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblywoman NELLIE POU

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblymen Chivukula, Schaer, Greenwald and L.Smith

SYNOPSIS

Allows sales tax exemption for all qualified business urban enterprise zone purchases at point of sale.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/28/2008)

A2720 VAS, BURZICHELLI

2

1 AN ACT allowing a sales tax exemption for all qualified business
2 urban enterprise zone purchases at the point of sale, amending
3 P.L.1983, c.303.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
9 read as follows:

10 20. a. Retail sales of personal property (except motor vehicles
11 and energy) and sales of services (except telecommunications and
12 utility services) to a qualified business for the exclusive use or
13 consumption of such business within an enterprise zone are exempt
14 from the taxes imposed under the "Sales and Use Tax Act,"
15 P.L.1966, c.30 (C.54:32B-1 et seq.).

16 b. **[**Notwithstanding the provisions of subsection a. of this
17 section, the seller shall charge and collect from a purchaser that is
18 not a small qualified business the tax at the rate then in effect, and
19 the tax shall be refunded to the purchaser by the filing, within one
20 year following the date of sale, of a claim with the New Jersey
21 Division of Taxation for a refund of sales and use taxes paid for the
22 goods and materials. Proof of claim for refund shall be made by the
23 submission of auditable receipts and such other documentation as
24 the Director of the Division of Taxation may require.**]** Deleted by
25 amendment, P.L. , c. (pending before the Legislature as this bill)

26 c. **[**As used in this section:

27 "Qualified business" includes a business that becomes qualified
28 by the time the refund application is filed pursuant to subsection b.
29 of this section; and

30 "Small qualified business" means a qualified business that has
31 been determined and certified by the director to have had less than
32 \$3,000,000 in annual gross receipts in that business prior annual tax
33 period.**]** Deleted by amendment, P.L. , c. (pending before the
34 Legislature as this bill)

35 d. **[**The director shall submit to the Senate Legislative
36 Oversight Committee and the Assembly Regulatory Oversight
37 Committee any rules or regulations to effectuate amendments made
38 to this section by P.L.2006, c.34 that are proposed for publication in
39 the New Jersey Register. The director shall evaluate the
40 effectiveness of the amendments made to this section by P.L.2006,
41 c.34 and report any findings and recommendations regarding the
42 amendments to the Senate Legislative Oversight Committee and the
43 Assembly Regulatory Oversight Committee before the Governor
44 presents a budget proposal for Fiscal Year 2008.**]** Deleted by

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 amendment, P.L. , c. (pending before the Legislature as this bill)
2 (cf: P.L.2007, c.328, s.1)

3

4 2. This act shall take effect immediately and section 1 shall
5 apply to sales made on or after the first day of the second month
6 following its effective date.

7

8

9

STATEMENT

10

11 This bill applies at the time of purchase the sales tax exemption
12 for certain acquisitions by qualified UEZ businesses with at least \$3
13 million in annual gross receipts. Current law requires these
14 businesses to pay sales tax at the time of their input purchase and
15 thereafter to apply for a refund of taxes paid to the Division of
16 Taxation. Other UEZ businesses already benefit from a point-of-
17 sale exemption.

18 The refund mechanism has imposed an unnecessary
19 administrative and monetary burden on local businesses. New
20 Jersey would be better served, if businesses were to apply their
21 limited resources to entrepreneurial objectives instead. In making
22 the administration of the sales tax exemption more business-
23 friendly, the bill will hence reaffirm the State's commitment to
24 fostering economic growth in partnership with the private sector.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2720

STATE OF NEW JERSEY

DATED: OCTOBER 6, 2008

The Assembly Budget Committee reports favorably Assembly Bill No. 2720.

This bill applies, at the time of purchase, a sales tax exemption for certain acquisitions by qualified UEZ businesses with at least \$3 million in annual gross receipts. Current law requires these businesses to pay sales tax at the time of their input purchase and thereafter to apply for a refund of taxes paid to the Division of Taxation. Other UEZ businesses already benefit from a point-of-sale exemption.

According to the sponsor statement, the refund mechanism has imposed an unnecessary administrative and monetary burden on local businesses. In making the administration of the sales tax exemption more business-friendly, the bill would reaffirm the State's commitment to fostering economic growth in partnership with the private sector.

FISCAL IMPACT:

According to the fiscal note for this bill, the Division of Taxation projected a revenue loss of approximately \$45.5 million in FY2009, \$47.2 million in FY2010, and \$49.1 million in FY2011, based on an analysis in 2006.

The Office of Legislative Services (OLS) can neither concur nor disagree with the Executive estimate due to insufficient data made available on this subject matter. The OLS does anticipate an indeterminate annual revenue loss to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. There would also be a reduction in administrative costs for a small offset to the revenue loss.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2720

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 2008

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 2720.

This bill applies, at the time of purchase, the sales tax exemption for certain acquisitions by qualified UEZ businesses with at least \$3 million in annual gross receipts. Current law requires these businesses to pay sales tax at the time of their input purchase and thereafter to apply for a refund of taxes paid to the Division of Taxation. Other UEZ businesses already benefit from a point-of-sale exemption.

The refund mechanism has imposed an unnecessary administrative and monetary burden on local businesses and New Jersey would be better served if businesses were to apply their limited resources to entrepreneurial objectives instead. In making the administration of the sales tax exemption more business-friendly, the bill will hence reaffirm the State's commitment to fostering economic growth in partnership with the private sector.

STATEMENT TO

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 2720

with Senate Floor Amendments
(Proposed By Senator STACK)

ADOPTED: NOVEMBER 24, 2008

This bill modifies provisions of the Urban Enterprise Zone (UEZ) sales tax exemption for purchases by qualified UEZ businesses.

Under current law, a “small qualified business” with annual gross receipts of less than \$3 million is exempt from sales tax at the point of purchase. Larger businesses are eligible for the exemption, but must pay the tax and then submit a claim for refund on qualified purchases.

The bill increases the annual gross receipts allowed to a UEZ business to qualify for a point of purchase exemption from less than \$3 million to less than \$7 million. These amendments, however, further increase that threshold, allowing businesses with annual gross receipts of less than \$10 million to qualify for the point of purchase exemption.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 2720
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: NOVEMBER 19, 2008

SUMMARY

- Synopsis:** Broadens small qualified business exception under UEZ sales tax rebate program.
- Type of Impact:** Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and Local Urban Enterprise Zone Authorities.
- Agencies Affected:** Department of the Treasury;
 Local Urban Enterprise Zone Authorities.

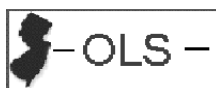
Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2009</u>	<u>Fiscal Year 2010</u>	<u>Fiscal Year 2011</u>
State Administrative Cost Reduction	At most \$1,200,000 per year		
State Revenue Loss	Indeterminate - See comments below		
Local Revenue Loss	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot quantify the fiscal impact of the Assembly Substitute, as it lacks the data upon which to predicate a reliable estimate.
- The Assembly Substitute would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation’s oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

BILL DESCRIPTION

Assembly Substitute for Assembly Bill No. 2720 of 2008 applies at the time of purchase the sales tax exemption for certain acquisitions by qualified UEZ businesses with annual gross receipts ranging from \$3 million to \$7 million. Current law requires all qualified UEZ



businesses with annual gross receipts of \$3 million or more to pay sales tax at the time of their input purchase and then to apply for a refund of taxes paid to the Division of Taxation. UEZ businesses with less than \$3 million in annual gross receipts already benefit from a point-of-sale exemption.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Taxation in the Department of the Treasury has not submitted an updated fiscal estimate for this Assembly Substitute. However, it provided an estimate for the original Assembly Bill No. 2720 of 2008, which applied at the time of purchase the sales tax exemption for certain acquisitions by all qualified UEZ businesses.

The division projected that the original bill would have lowered State General Fund revenues by \$45.5 million in fiscal year 2009, \$47.2 million in fiscal year 2010, and \$49.1 million in fiscal year 2011. The division referenced its June 2006 analysis of replacing the point-of-sale exemption with the refund mechanism as a measure to curb tax fraud and abuse, for which it had expected to generate at least \$46 million in State General Fund revenues in fiscal year 2007. Since the rebate mechanism enacted under P.L.2006, c.34 did not apply to businesses with gross receipts of less than \$1 million, the division excluded these businesses from its June 2006 projection by assuming that they accounted for 7.5 percent of tax-exempt input purchases by qualified UEZ businesses. The 7.5 percent reflected the portion of corporate gross receipts earned by corporations with less than \$1 million in annual gross receipts, according to the Internal Revenue Service. Lastly, the division inflated by four percent per year the \$42.1 million that remained after excluding the impact of tax-exempt input purchases by qualified UEZ businesses with annual gross receipts of less than \$1 million.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot quantify the Assembly Substitute's fiscal impact, as it lacks the data upon which to predicate a reliable estimate. As explained below, the agency anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, the OLS forecasts a reduction in State administrative cost of not more than \$1.2 million per year.

The OLS notes that the Assembly Substitute would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses with annual gross receipts of at least \$3 million but not more than \$7 million were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds (in a written follow-up response to a question raised during the Department of the Treasury's budget hearing before the Assembly Budget Committee on April 3, 2008, the department indicated that as of March 2008, the Division of Taxation had received 3,200 refund claims totaling \$54 million and that it had issued \$31.9 million in refunds and denied refund claims of \$3.1 million). While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would

result from qualified UEZ businesses claiming the point-of-sale exemption for input purchases made at another qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

The OLS estimates further that the Assembly Substitute would reduce the refund's administrative expenses charged to the off-budget Enterprise Zone Assistance Fund, which were \$1.2 million in fiscal year 2007. While the magnitude of the cost reduction remains unknown, its extent would depend on the reduction of refund claims that the Division of Taxation would have to process as fewer businesses would have to file for refunds.

The New Jersey Commerce Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 19 percent (or 1,563 firms) from 8,037 in fiscal year 2006 to 6,474 in fiscal year 2008. According to information related by the Division of Taxation, this drop may be explained by the tax clearance procedure that took effect along with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 businesses their recertification as a qualified UEZ business as of February 2, 2007.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 2720

STATE OF NEW JERSEY

213th LEGISLATURE

DATED: DECEMBER 15, 2008

SUMMARY

- Synopsis:** Broadens small qualified business exception under UEZ sales tax rebate program.
- Type of Impact:** Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and Local Urban Enterprise Zone Authorities.
- Agencies Affected:** Department of the Treasury;
Local Urban Enterprise Zone Authorities.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
State Administrative Cost Reduction	At most \$1,200,000 per year		
State Revenue Loss	Indeterminate – See comments below		
Local Revenue Loss	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) cannot quantify the fiscal impact of the legislation as it lacks the data upon which to predicate a reliable estimate.
- The legislation would produce a revenue loss to the State and possibly to Local Urban Enterprise Zone Authorities (UEZ) if qualified UEZ businesses were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

BILL DESCRIPTION

Assembly Substitute (1R) for Assembly Bill No. 2720 of 2008 applies at the time of purchase the sales tax exemption for certain acquisitions by qualified UEZ businesses with annual gross receipts ranging from \$3 million to \$10 million. Current law requires all qualified UEZ businesses with annual gross receipts of \$3 million or more to pay sales tax at the time of their input purchase and then to apply for a refund of taxes paid to the Division of Taxation. UEZ businesses with less than \$3 million in annual gross receipts already benefit from a point-of-sale exemption.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Taxation in the Department of the Treasury has not submitted an updated fiscal estimate for Assembly Substitute (1R) for Assembly Bill No. 2720 of 2008. However, it provided an estimate for the original Assembly Bill No. 2720 of 2008, which applied at the time of purchase the sales tax exemption for certain acquisitions by all qualified UEZ businesses.

The division projected that the original bill would have lowered State General Fund revenues by \$45.5 million in fiscal year 2009, \$47.2 million in fiscal year 2010, and \$49.1 million in fiscal year 2011. The division referenced its June 2006 analysis of replacing the point-of-sale exemption with the refund mechanism as a measure to curb tax fraud and abuse, which it had expected to generate at least \$46 million in State General Fund revenues in fiscal year 2007. Since the rebate mechanism enacted under P.L.2006, c.34 did not apply to businesses with gross receipts of less than \$1 million, the division excluded these businesses from its June 2006 projection by assuming that they accounted for 7.5 percent of tax-exempt input purchases by qualified UEZ businesses. The 7.5 percent reflected the portion of corporate gross receipts earned by corporations with less than \$1 million in annual gross receipts, according to the Internal Revenue Service. Lastly, the division inflated by four percent per year the \$42.1 million that remained after excluding the impact of tax-exempt input purchases by qualified UEZ businesses with annual gross receipts of less than \$1 million.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot quantify the legislation's fiscal impact, as it lacks the data upon which to predicate a reliable estimate. As explained below, the agency anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, the OLS forecasts a reduction in State administrative cost of not more than \$1.2 million per year.

The OLS notes that the legislation would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses with annual gross receipts of at least \$3 million but not more than \$10 million were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds (in a written follow-up response to a question raised during the Department of the Treasury's

budget hearing before the Assembly Budget Committee on April 3, 2008, the department indicated that as of March 2008, the Division of Taxation had received 3,200 refund claims totaling \$54 million and that it had issued \$31.9 million in refunds and denied refund claims of \$3.1 million). While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would result from qualified UEZ businesses claiming the point-of-sale exemption for input purchases made at another qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

The OLS estimates further that the legislation would reduce the refund's administrative expenses charged to the off-budget Enterprise Zone Assistance Fund, which were \$1.2 million in fiscal year 2007. While the magnitude of the cost reduction remains unknown, its extent would depend on the reduction of refund claims that the Division of Taxation would have to process as fewer businesses would have to file for refunds.

The New Jersey Commerce Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 19 percent (or 1,563 firms) from 8,037 in fiscal year 2006 to 6,474 in fiscal year 2008. According to information related by the Division of Taxation, this drop may be explained by the tax clearance procedure that took effect along with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 businesses their recertification as a qualified UEZ business as of February 2, 2007.

Section: Revenue, Finance and Appropriations
Analyst: Thomas Koenig
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

FISCAL NOTE
ASSEMBLY, No. 2720
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: SEPTEMBER 16, 2008

SUMMARY

Synopsis: Allows sales tax exemption for all qualified business urban enterprise zone purchases at point of sale.

Type of Impact: Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and local Urban Enterprise Zone Authorities.

Agencies Affected: Department of the Treasury;
Local Urban Enterprise Zone Authorities.

Executive Estimate

Fiscal Impact	<u>Fiscal Year</u> 2009	<u>Fiscal Year</u> 2010	<u>Fiscal Year</u> 2011
State Revenue Loss	\$45,500,000	\$47,200,000	\$49,100,000

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year</u> 2009	<u>Fiscal Year</u> 2010	<u>Fiscal Year</u> 2011
State			
Administrative Cost Reduction		At most \$1,200,000 per year	
State Revenue Loss		Indeterminate - See Comments Below	
Local Revenue Loss		Indeterminate - See Comments Below	

- The Office of Legislative Services (OLS) can neither **concur nor disagree** with an Executive estimate whose accuracy the office questions but cannot refute. As detailed on pages 2 and 3, three shortcomings lead the OLS to conjecture that the Executive may have overestimated the cost of the legislation.
- The bill would produce a revenue loss to the State and possibly to local Urban Enterprise Zone (UEZ) authorities if qualified UEZ businesses with annual gross receipts of at least \$3 million were to successfully avail themselves of the point of sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of

Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

BILL DESCRIPTION

Assembly Bill No. 2720 of 2008 applies at the time of purchase a sales tax exemption for certain acquisitions by qualified UEZ businesses with at least \$3 million in annual gross receipts. Current law requires these businesses to pay sales tax at the time of their input purchase and thereafter to apply for a refund of taxes paid to the Division of Taxation. UEZ businesses with less than \$3 million in annual gross receipts already benefit from a point-of-sale exemption.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Taxation in the Department of the Treasury projects that this bill would lower State General Fund revenues by \$45.5 million in fiscal year 2009, \$47.2 million in fiscal year 2010, and \$49.1 million in fiscal year 2011. The division references its June 2006 analysis of replacing the point-of-sale exemption with the refund mechanism as a measure to curb tax fraud and abuse, which it expected to generate at least \$46 million in State General Fund revenues in fiscal year 2007. Since the rebate mechanism enacted under P.L.2006, c.34 did not apply to businesses with gross receipts of less than \$1 million, the division excludes these businesses from its June 2006 projection by assuming that they account for 7.5 percent of tax-exempt input purchases by qualified UEZ businesses. The 7.5 percent reflects the portion of corporate gross receipts earned by corporations with less than \$1 million in annual gross receipts, according to the Internal Revenue Service. Lastly, the division inflates by four percent per year the \$42.1 million that remain after excluding the impact of tax-exempt input purchases by qualified UEZ businesses with annual gross receipts of less than \$1 million.

OFFICE OF LEGISLATIVE SERVICES

The OLS can neither concur nor disagree with an Executive estimate whose accuracy the office questions but cannot refute in light of insufficient data. Nonetheless, the OLS anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, it forecasts a reduction in State administrative cost of not more than \$1.2 million per year.

Assessing the Executive Estimate: Three shortcomings lead the OLS to conjecture that the Executive may have overestimated the cost of the legislation: the uncertainty surrounding the \$46 million estimate for P.L.2006, c.34, a simplified interpretation of that law, and the omission of P.L.2007, c.328.

First, the basis for the division's June 2006 estimate and the rebate's actual performance remain unknown. In its June 2006 analysis, the division did not elaborate on the method and data underlying the \$46 million estimate. The division now not only builds on its June 2006 analysis in estimating the fiscal impact of Assembly Bill No. 2720 of 2008, but it also fails to allude to the actual performance of the rebate mechanism over the last two years.

Second, P.L.2006, c.34 did not just replace with the refund mechanism the point-of-sale exemption of input purchases by qualified UEZ businesses with annual gross receipts of at least \$1 million. It also instituted a new tax clearance procedure for all UEZ businesses. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. This new requirement cost over 1,500 businesses their recertification as a qualified UEZ business as of February 2, 2007. Since this bill does not amend the tax clearance procedure, the OLS notes that some part of the \$46 million revenue gain the division projected for P.L.2006, c.34 would not be forfeited if Assembly Bill No. 2720 of 2008 was adopted.

Third, the division assumes that this bill would apply to businesses with gross receipts of at least \$1 million, but it would in actuality apply only to businesses with gross receipts of at least \$3 million. P.L.2007, c.328 allowed qualified UEZ businesses with annual gross receipts ranging from \$1 million to \$3 million to receive the sales tax exemption for certain acquisitions at the time of sale. Consequently, the percentage of the division's projected \$46 million revenue impact to be affected by this legislation would be less than 92.5 percent.

Lastly, the OLS conceptually disagrees with the division's use of federal corporate tax filer data as a proxy for the composition of input purchases by qualified UEZ businesses. But although it would be more accurate to use data on all businesses, not just on corporations, a review of Internal Revenue Service data on all businesses in tax year 2003 suggests that the result would not differ significantly.

The OLS Estimate: The OLS notes that the bill would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses with annual gross receipts of at least \$3 million were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds. While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would result from qualified UEZ businesses claiming the point-of-sale exemption for input purchases made at another qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

The OLS estimates further that the bill would reduce the refund's administrative expenses charged to the off-budget Enterprise Zone Assistance Fund, which were \$1.2 million in fiscal year 2007. While the magnitude of the cost reduction remains unknown, its extent would depend on the reduction of refund claims that the Division of Taxation would have to process as fewer businesses would have to file for refunds.

The New Jersey Commerce Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 19 percent (or 1,563 firms) from 8,037 in fiscal year 2006 to 6,474 in fiscal year 2008. According to information related by the Division of Taxation, this drop may be explained by the tax clearance procedure that took effect along with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 businesses their recertification as a qualified UEZ business as of February 2, 2007.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

SENATE, No. 5

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 27, 2008

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Co-Sponsored by:

Senators Cunningham, Ruiz, Sarlo, Bucco and Girgenti

SYNOPSIS

Broadens small qualified business exception under UEZ sales tax rebate program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/25/2008)

1 AN ACT broadening the small qualified business exception under
2 the UEZ sales tax rebate program, amending P.L.1983, c.303.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
8 read as follows:

9 20. a. Retail sales of personal property (except motor vehicles
10 and energy) and sales of services (except telecommunications and
11 utility services) to a qualified business for the exclusive use or
12 consumption of such business within an enterprise zone are exempt
13 from the taxes imposed under the "Sales and Use Tax Act,"
14 P.L.1966, c.30 (C.54:32B-1 et seq.).

15 b. Notwithstanding the provisions of subsection a. of this
16 section, the seller shall charge and collect from a purchaser that is
17 not a small qualified business the tax at the rate then in effect, and
18 the tax shall be refunded to the purchaser by the filing, within one
19 year following the date of sale, of a claim with the New Jersey
20 Division of Taxation for a refund of sales and use taxes paid for the
21 goods and materials. Proof of claim for refund shall be made by the
22 submission of auditable receipts and such other documentation as
23 the Director of the Division of Taxation may require.

24 c. As used in this section:

25 "Qualified business" includes a business that becomes qualified
26 by the time the refund application is filed pursuant to subsection b.
27 of this section; and

28 "Small qualified business" means a qualified business that has
29 been determined and certified by the director to have had less than
30 **[\$3,000,000]** \$7,000,000 in annual gross receipts in that **[business]**
31 business's prior annual tax period.

32 d. The director shall submit to the Senate Legislative Oversight
33 Committee and the Assembly Regulatory Oversight Committee any
34 rules or regulations to effectuate amendments made to this section
35 by P.L.2006, c.34 that are proposed for publication in the New
36 Jersey Register. The director shall evaluate the effectiveness of the
37 amendments made to this section by P.L.2006, c.34 and report any
38 findings and recommendations regarding the amendments to the
39 Senate Legislative Oversight Committee and the Assembly
40 Regulatory Oversight Committee before the Governor presents a
41 budget proposal for Fiscal Year 2008.

42 (cf: P.L.2007, c.328, s.1)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. This act shall take effect immediately and apply to sales of
2 personal property and services made or rendered on or after the first
3 day of the second month next following the date of enactment.

4

5

6

STATEMENT

7

8 This bill broadens the exception for certain small businesses
9 under the Urban Enterprise Zone (UEZ) sales tax rebate program by
10 expanding the definition of a “small qualified business” from
11 businesses with annual gross receipts of less than \$3,000,000 to
12 businesses with annual gross receipts of less than \$7,000,000.

13 Under current law, certain sales of goods and services to
14 qualified UEZ businesses are exempt from the sales and use tax at
15 the point of purchase if the business is a “qualified small business”
16 with annual gross receipts of less than \$3,000,000. Qualified UEZ
17 businesses with annual gross receipts equal to or greater than
18 \$3,000,000 are also eligible for the exemption, but are required to
19 pay the applicable tax at the point of purchase and submit a claim
20 for refund to the Division of Taxation in the Department of the
21 Treasury within one year of the date of the transaction.

22 By increasing the current gross receipts threshold, this bill
23 expands the number of small businesses eligible to obtain the
24 exemption at the point of purchase. Under the bill, small qualified
25 businesses with annual gross receipts less than \$7,000,000 may
26 forgo the rebate process established under P.L.2006, c.34.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 5

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Senate Economic Growth Committee reports favorably Senate Bill, No. 5.

This bill broadens the class of small businesses that are exempt from the sales tax rebate procedure under the Urban Enterprise Zone (UEZ) sales tax rebate program by expanding the UEZ law's definition of a "small qualified business" from businesses with annual gross receipts of less than \$3,000,000 to businesses with annual gross receipts of less than \$7,000,000.

Under current law, certain sales of goods and services to qualified UEZ businesses are exempt from the sales and use tax at the point of purchase if the business is a "qualified small business" with annual gross receipts of less than \$3,000,000. Qualified UEZ businesses with annual gross receipts equal to or greater than \$3,000,000 are also eligible for the exemption, but are required to pay the applicable tax at the point of purchase and submit a claim for refund to the Division of Taxation in the Department of the Treasury within one year of the date of the transaction.

By increasing the current gross receipts threshold, this bill expands the number of small businesses eligible to obtain the exemption at the point of purchase. Under the bill, small qualified businesses with annual gross receipts less than \$7,000,000 may forgo the rebate process established under P.L.2006, c.34.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 5

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 5.

The bill broadens the exception for certain small businesses under the Urban Enterprise Zone (UEZ) sales tax rebate program by expanding the definition of a “small qualified business” from businesses with annual gross receipts of less than \$3,000,000 to businesses with annual gross receipts of less than \$7,000,000.

Under current law, certain sales of goods and services to qualified UEZ businesses are exempt from the sales and use tax at the point of purchase if the business is a “qualified small business” with annual gross receipts of less than \$3,000,000. Qualified UEZ businesses with annual gross receipts equal to or greater than \$3,000,000 are also eligible for the exemption, but are required to pay the applicable tax at the point of purchase and submit a claim for refund to the Division of Taxation in the Department of the Treasury within one year of the date of the transaction.

By increasing the current gross receipts threshold, this bill expands the number of small businesses eligible to obtain the exemption at the point of purchase. Under the bill, small qualified businesses with annual gross receipts less than \$7,000,000 may forgo the rebate process established under P.L.2006, c.34.

This bill is identical to the Assembly Substitute to Assembly Bill No. 2720.

FISCAL IMPACT:

Office of Legislative Services estimates that this bill may have an indeterminate, minimal impact on State administrative costs, State revenues, and on local Urban Enterprise Zone revenues. Actual data is not available, but the bill would impact the mechanism by which certain qualified small businesses may receive their sales tax exemption, not the eligibility for the sales tax exemption.

STATEMENT TO

SENATE, No. 5

with Senate Floor Amendments
(Proposed By Senator STACK)

ADOPTED: NOVEMBER 24, 2008

This bill modifies provisions of the Urban Enterprise Zone (UEZ) sales tax exemption for purchases by qualified UEZ businesses.

Under current law, a “small qualified business” with annual gross receipts of less than \$3 million is exempt from sales tax at the point of purchase. Larger businesses are eligible for the exemption, but must pay the tax and then submit a claim for refund on qualified purchases.

The bill increases the annual gross receipts allowed to a UEZ business to qualify for a point of purchase exemption from less than \$3 million to less than \$7 million. These amendments, however, further increase that threshold, allowing businesses with annual gross receipts of less than \$10 million to qualify for the point of purchase exemption.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 5
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: NOVEMBER 20, 2008

SUMMARY

- Synopsis:** Broadens small qualified business exception under UEZ sales tax rebate program.
- Type of Impact:** Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and Local Urban Enterprise Zone Authorities.
- Agencies Affected:** Department of the Treasury;
Local Urban Enterprise Zone Authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year</u> <u>2009</u>	<u>Fiscal Year</u> <u>2010</u>	<u>Fiscal Year</u> <u>2011</u>
State Administrative Cost Reduction	At most \$1,200,000 per year		
State Revenue Loss	Indeterminate - See comments below		
Local Revenue Loss	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot quantify the bill’s fiscal impact, as it lacks the data upon which to predicate a reliable estimate.
- The legislation would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation’s oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

BILL DESCRIPTION

Senate Bill No. 5 of 2008 applies at the time of purchase the sales tax exemption for certain acquisitions by qualified UEZ businesses with annual gross receipts ranging from \$3 million to \$7 million. Current law requires all qualified UEZ businesses with annual gross receipts of \$3



million or more to pay sales tax at the time of their input purchase and then to apply for a refund of taxes paid to the Division of Taxation. UEZ businesses with less than \$3 million in annual gross receipts already benefit from a point-of-sale exemption.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Taxation in the Department of the Treasury has not submitted a fiscal estimate for this bill. However, it provided an estimate for the original Assembly Bill No. 2720 of 2008, which applied at the time of purchase the sales tax exemption for certain acquisitions by all qualified UEZ businesses.

The division projected that Assembly Bill No. 2720 would have lowered State General Fund revenues by \$45.5 million in fiscal year 2009, \$47.2 million in fiscal year 2010, and \$49.1 million in fiscal year 2011. The division referenced its June 2006 analysis of replacing the point-of-sale exemption with the refund mechanism as a measure to curb tax fraud and abuse, for which it had expected to generate at least \$46 million in State General Fund revenues in fiscal year 2007. Since the rebate mechanism enacted under P.L.2006, c.34 did not apply to businesses with gross receipts of less than \$1 million, the division excluded these businesses from its June 2006 projection by assuming that they accounted for 7.5 percent of tax-exempt input purchases by qualified UEZ businesses. The 7.5 percent reflected the portion of corporate gross receipts earned by corporations with less than \$1 million in annual gross receipts, according to the Internal Revenue Service. Lastly, the division inflated by four percent per year the \$42.1 million that remained after excluding the impact of tax-exempt input purchases by qualified UEZ businesses with annual gross receipts of less than \$1 million.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot quantify the bill's fiscal impact, as it lacks the data upon which to predicate a reliable estimate. As explained below, the agency anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, the OLS forecasts a reduction in State administrative cost of not more than \$1.2 million per year.

The OLS notes that the legislation would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses with annual gross receipts of at least \$3 million but not more than \$7 million were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds (in a written follow-up response to a question raised during the Department of the Treasury's budget hearing before the Assembly Budget Committee on April 3, 2008, the department indicated that as of March 2008, the Division of Taxation had received 3,200 refund claims totaling \$54 million and that it had issued \$31.9 million in refunds and denied refund claims of \$3.1 million). While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would result from qualified UEZ businesses claiming the point-of-sale exemption for input purchases made at another

qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

The OLS estimates further that the bill would reduce the refund's administrative expenses charged to the off-budget Enterprise Zone Assistance Fund, which were \$1.2 million in fiscal year 2007. While the magnitude of the cost reduction remains unknown, its extent would depend on the reduction of refund claims that the Division of Taxation would have to process as fewer businesses would have to file for refunds.

The New Jersey Commerce Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 19 percent (or 1,563 firms) from 8,037 in fiscal year 2006 to 6,474 in fiscal year 2008. According to information related by the Division of Taxation, this drop may be explained by the tax clearance procedure that took effect along with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 businesses their recertification as a qualified UEZ business as of February 2, 2007.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 5

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: DECEMBER 17, 2008

SUMMARY

- Synopsis:** Broadens small qualified business exception under UEZ sales tax rebate program.
- Type of Impact:** Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and Local Urban Enterprise Zone Authorities.
- Agencies Affected:** Department of the Treasury;
Local Urban Enterprise Zone Authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2009</u>	<u>Fiscal Year 2010</u>	<u>Fiscal Year 2011</u>
State Administrative Cost Reduction	At most \$1,200,000 per year		
State Revenue Loss	Indeterminate – See comments below		
Local Revenue Loss	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) cannot quantify the bill's fiscal impact as it lacks the data upon which to predicate a reliable estimate.
- The legislation would produce a revenue loss to the State and possibly to Local Urban Enterprise Zone Authorities (UEZ) if qualified UEZ businesses were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

BILL DESCRIPTION

Senate Bill No. 5 (1R) of 2008 applies at the time of purchase the sales tax exemption for certain acquisitions by qualified UEZ businesses with annual gross receipts ranging from \$3 million to \$10 million. Current law requires all qualified UEZ businesses with annual gross receipts of \$3 million or more to pay sales tax at the time of their input purchase and then to apply for a refund of taxes paid to the Division of Taxation. UEZ businesses with less than \$3 million in annual gross receipts already benefit from a point-of-sale exemption.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Taxation in the Department of the Treasury has not submitted a fiscal estimate for this bill. However, it provided an estimate for the original Assembly Bill No. 2720 of 2008, which applied at the time of purchase the sales tax exemption for certain acquisitions by all qualified UEZ businesses.

The division projected that Assembly Bill No. 2720 would have lowered State General Fund revenues by \$45.5 million in fiscal year 2009, \$47.2 million in fiscal year 2010, and \$49.1 million in fiscal year 2011. The division referenced its June 2006 analysis of replacing the point-of-sale exemption with the refund mechanism as a measure to curb tax fraud and abuse, which it had expected to generate at least \$46 million in State General Fund revenues in fiscal year 2007. Since the rebate mechanism enacted under P.L.2006, c.34 did not apply to businesses with gross receipts of less than \$1 million, the division excluded these businesses from its June 2006 projection by assuming that they accounted for 7.5 percent of tax-exempt input purchases by qualified UEZ businesses. The 7.5 percent reflected the portion of corporate gross receipts earned by corporations with less than \$1 million in annual gross receipts, according to the Internal Revenue Service. Lastly, the division inflated by four percent per year the \$42.1 million that remained after excluding the impact of tax-exempt input purchases by qualified UEZ businesses with annual gross receipts of less than \$1 million.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot quantify the bill's fiscal impact, as it lacks the data upon which to predicate a reliable estimate. As explained below, the agency anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, the OLS forecasts a reduction in State administrative cost of not more than \$1.2 million per year.

The OLS notes that the legislation would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses with annual gross receipts of at least \$3 million but not more than \$10 million were to successfully avail themselves of the point-of-sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds (in a written follow-up response to a question raised during the Department of the Treasury's budget hearing before the Assembly Budget Committee on April 3, 2008, the department

indicated that as of March 2008, the Division of Taxation had received 3,200 refund claims totaling \$54 million and that it had issued \$31.9 million in refunds and denied refund claims of \$3.1 million). While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would result from qualified UEZ businesses claiming the point-of-sale exemption for input purchases made at another qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

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The New Jersey Commerce Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 19 percent (or 1,563 firms) from 8,037 in fiscal year 2006 to 6,474 in fiscal year 2008. According to information related by the Division of Taxation, this drop may be explained by the tax clearance procedure that took effect along with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 businesses their recertification as a qualified UEZ business as of February 2, 2007.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

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JON S. CORZINE

*Governor***For Immediate Release:**

For Kids

Date: December 17, 2008

For More Information:

Robert Corrales

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Governor Signs Legislation Enhancing Urban Enterprise Zones

TRENTON - Governor Jon S. Corzine today signed legislation that broadens the small qualified business exception under the Urban Enterprise Zone (UEZ) sales tax program. The measure is another facet of the Governor's Economic Recovery and Assistance Plan that focuses on extending immediate assistance and stimulating economic growth.

"In this tough economic environment, small businesses need the ability to invest in their future prosperity," said Governor Corzine. "The bill I am signing expands the number of Urban Enterprise Zone businesses eligible for point-of-sale exemption from sales tax for business supplies and other purchases. This move provides a targeted

boost that will encourage growth in our urban economies during a deep recession."

This bill, A-2720/S-5, modifies provisions of the Urban Enterprise Zone sales tax exemption for purchases by qualified UEZ businesses with annual gross receipts ranging from \$3 million up to \$10 million. Presently, qualified small businesses with annual gross receipts of less than \$3 million are exempt from sales tax at the point of purchase.

"The current process has been decried as an unnecessary administrative and monetary burden on local businesses," said Assemblyman Joseph Vas (D-Middlesex). "Making this change will help businesses retain access to more of their money and will help encourage private-sector economic growth."

"The on-site sales tax exemption at the point of sale will speed up the process by which small businesses in enterprise zones can generate growth," said Senator Brian Stack (D-Hudson), a prime sponsor of S-5.

New Jersey's Urban Enterprise Zone program works to revitalize designated urban communities to stimulate business growth and the creation of jobs through public and private sector investment. There are 32 Urban Enterprise Zones in 37 municipalities throughout the state.

Senator Shirley K. Turner, (D-Mercer), another prime sponsor of S-5, said, "Promoting small businesses now will produce long-term, positive results down the road because they are the backbone of our economy."

Primary Assembly sponsors include Joseph Vas (D-Middlesex), John J. Burzichelli (D-Salem, Cumberland, Gloucester), Nellie Pou, (D-Bergen, Passaic) and Eleese Evans (D-Bergen, Passaic). Senators Brian P. Stack (D-Hudson) and Shirley K. Turner (D-Mercer) were primary sponsors in the Senate.

###

Photos from Governor Corzine's public events are available

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